

**As Passed by the Senate**

**131st General Assembly**

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**Sub. S. B. No. 254**

**Senator Uecker**

**Cosponsors: Senators Hite, Jordan, Burke, Beagle, Coley, Faber, Eklund, Hackett,  
Hottinger, Hughes, Oelslager, Patton**

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**A BILL**

To amend sections 2317.56, 3701.341, and 3701.79 1  
and to enact sections 3728.01, 3728.02, 3728.03, 2  
3728.04, 3728.05, 3728.09, 3728.10, 3728.11, 3  
3728.12, 3728.13, 3728.14, 3728.15, 3728.95, 4  
3728.99, and 4717.271 of the Revised Code 5  
regarding final disposition of fetal remains 6  
from surgical abortions. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2317.56, 3701.341, and 3701.79 be 8  
amended and sections 3728.01, 3728.02, 3728.03, 3728.04, 9  
3728.05, 3728.09, 3728.10, 3728.11, 3728.12, 3728.13, 3728.14, 10  
3728.15, 3728.95, 3728.99, and 4717.271 of the Revised Code be 11  
enacted to read as follows: 12

**Sec. 2317.56.** (A) As used in this section: 13

(1) "Medical emergency" has the same meaning as in section 14  
2919.16 of the Revised Code. 15

(2) "Medical necessity" means a medical condition of a 16  
pregnant woman that, in the reasonable judgment of the physician 17

who is attending the woman, so complicates the pregnancy that it 18  
necessitates the immediate performance or inducement of an 19  
abortion. 20

(3) "Probable gestational age of the embryo or fetus" 21  
means the gestational age that, in the judgment of a physician, 22  
is, with reasonable probability, the gestational age of the 23  
embryo or fetus at the time that the physician informs a 24  
pregnant woman pursuant to division (B) (1) (b) of this section. 25

(B) Except when there is a medical emergency or medical 26  
necessity, an abortion shall be performed or induced only if all 27  
of the following conditions are satisfied: 28

(1) At least twenty-four hours prior to the performance or 29  
inducement of the abortion, a physician meets with the pregnant 30  
woman in person in an individual, private setting and gives her 31  
an adequate opportunity to ask questions about the abortion that 32  
will be performed or induced. At this meeting, the physician 33  
shall inform the pregnant woman, verbally or, if she is hearing 34  
impaired, by other means of communication, of all of the 35  
following: 36

(a) The nature and purpose of the particular abortion 37  
procedure to be used and the medical risks associated with that 38  
procedure; 39

(b) The probable gestational age of the embryo or fetus; 40

(c) The medical risks associated with the pregnant woman 41  
carrying the pregnancy to term. 42

The meeting need not occur at the facility where the 43  
abortion is to be performed or induced, and the physician 44  
involved in the meeting need not be affiliated with that 45  
facility or with the physician who is scheduled to perform or 46

induce the abortion. 47

(2) At least twenty-four hours prior to the performance or 48  
inducement of the abortion, the physician who is to perform or 49  
induce the abortion or the physician's agent does each of the 50  
following in person, by telephone, by certified mail, return 51  
receipt requested, or by regular mail evidenced by a certificate 52  
of mailing: 53

(a) Inform the pregnant woman of the name of the physician 54  
who is scheduled to perform or induce the abortion; 55

(b) Give the pregnant woman copies of the published 56  
materials described in division (C) of this section; 57

(c) Inform the pregnant woman that the materials given 58  
pursuant to division (B) (2) (b) of this section are published by 59  
the state and that they describe the embryo or fetus and list 60  
agencies that offer alternatives to abortion. The pregnant woman 61  
may choose to examine or not to examine the materials. A 62  
physician or an agent of a physician may choose to be 63  
disassociated from the materials and may choose to comment or 64  
not comment on the materials. 65

(3) If it has been determined that the unborn human 66  
individual the pregnant woman is carrying has a detectable 67  
heartbeat, the physician who is to perform or induce the 68  
abortion shall comply with the informed consent requirements in 69  
section 2919.192 of the Revised Code in addition to complying 70  
with the informed consent requirements in divisions (B) (1), (2), 71  
(4), and (5) of this section. 72

(4) Prior to the performance or inducement of the 73  
abortion, the pregnant woman signs a form consenting to the 74  
abortion and certifies ~~both~~ all of the following on that form: 75

(a) She has received the information and materials 76  
described in divisions (B) (1) and (2) of this section, and her 77  
questions about the abortion that will be performed or induced 78  
have been answered in a satisfactory manner. 79

(b) She consents to the particular abortion voluntarily, 80  
knowingly, intelligently, and without coercion by any person, 81  
and she is not under the influence of any drug of abuse or 82  
alcohol. 83

(c) If the abortion will be performed or induced 84  
surgically and she desires to exercise the rights under section 85  
3728.03 of the Revised Code, she has completed the disposition 86  
determination under section 3728.04 of the Revised Code. 87

The form shall contain the name and contact information of 88  
the physician who provided to the pregnant woman the information 89  
described in division (B) (1) of this section. 90

(5) Prior to the performance or inducement of the 91  
abortion, the physician who is scheduled to perform or induce 92  
the abortion or the physician's agent receives a copy of the 93  
pregnant woman's signed form on which she consents to the 94  
abortion and that includes the certification required by 95  
division (B) (4) of this section. 96

(C) The department of health shall publish in English and 97  
in Spanish, in a typeface large enough to be clearly legible, 98  
and in an easily comprehensible format, the following materials 99  
on the department's web site: 100

(1) Materials that inform the pregnant woman about family 101  
planning information, of publicly funded agencies that are 102  
available to assist in family planning, and of public and 103  
private agencies and services that are available to assist her 104

through the pregnancy, upon childbirth, and while the child is 105  
dependent, including, but not limited to, adoption agencies. The 106  
materials shall be geographically indexed; include a 107  
comprehensive list of the available agencies, a description of 108  
the services offered by the agencies, and the telephone numbers 109  
and addresses of the agencies; and inform the pregnant woman 110  
about available medical assistance benefits for prenatal care, 111  
childbirth, and neonatal care and about the support obligations 112  
of the father of a child who is born alive. The department shall 113  
ensure that the materials described in division (C) (1) of this 114  
section are comprehensive and do not directly or indirectly 115  
promote, exclude, or discourage the use of any agency or service 116  
described in this division. 117

(2) Materials that inform the pregnant woman of the 118  
probable anatomical and physiological characteristics of the 119  
zygote, blastocyte, embryo, or fetus at two-week gestational 120  
increments for the first sixteen weeks of pregnancy and at four- 121  
week gestational increments from the seventeenth week of 122  
pregnancy to full term, including any relevant information 123  
regarding the time at which the fetus possibly would be viable. 124  
The department shall cause these materials to be published only 125  
after it consults with the Ohio state medical association and 126  
the Ohio section of the American college of obstetricians and 127  
gynecologists relative to the probable anatomical and 128  
physiological characteristics of a zygote, blastocyte, embryo, 129  
or fetus at the various gestational increments. The materials 130  
shall use language that is understandable by the average person 131  
who is not medically trained, shall be objective and 132  
nonjudgmental, and shall include only accurate scientific 133  
information about the zygote, blastocyte, embryo, or fetus at 134  
the various gestational increments. If the materials use a 135

pictorial, photographic, or other depiction to provide 136  
information regarding the zygote, blastocyte, embryo, or fetus, 137  
the materials shall include, in a conspicuous manner, a scale or 138  
other explanation that is understandable by the average person 139  
and that can be used to determine the actual size of the zygote, 140  
blastocyte, embryo, or fetus at a particular gestational 141  
increment as contrasted with the depicted size of the zygote, 142  
blastocyte, embryo, or fetus at that gestational increment. 143

(D) Upon the submission of a request to the department of 144  
health by any person, hospital, physician, or medical facility 145  
for one copy of the materials published in accordance with 146  
division (C) of this section, the department shall make the 147  
requested copy of the materials available to the person, 148  
hospital, physician, or medical facility that requested the 149  
copy. 150

(E) If a medical emergency or medical necessity compels 151  
the performance or inducement of an abortion, the physician who 152  
will perform or induce the abortion, prior to its performance or 153  
inducement if possible, shall inform the pregnant woman of the 154  
medical indications supporting the physician's judgment that an 155  
immediate abortion is necessary. Any physician who performs or 156  
induces an abortion without the prior satisfaction of the 157  
conditions specified in division (B) of this section because of 158  
a medical emergency or medical necessity shall enter the reasons 159  
for the conclusion that a medical emergency or medical necessity 160  
exists in the medical record of the pregnant woman. 161

(F) If the conditions specified in division (B) of this 162  
section are satisfied, consent to an abortion shall be presumed 163  
to be valid and effective. 164

(G) The performance or inducement of an abortion without 165

the prior satisfaction of the conditions specified in division 166  
(B) of this section does not constitute, and shall not be 167  
construed as constituting, a violation of division (A) of 168  
section 2919.12 of the Revised Code. The failure of a physician 169  
to satisfy the conditions of division (B) of this section prior 170  
to performing or inducing an abortion upon a pregnant woman may 171  
be the basis of both of the following: 172

(1) A civil action for compensatory and exemplary damages 173  
as described in division (H) of this section; 174

(2) Disciplinary action under section 4731.22 of the 175  
Revised Code. 176

(H) (1) Subject to divisions (H) (2) and (3) of this 177  
section, any physician who performs or induces an abortion with 178  
actual knowledge that the conditions specified in division (B) 179  
of this section have not been satisfied or with a heedless 180  
indifference as to whether those conditions have been satisfied 181  
is liable in compensatory and exemplary damages in a civil 182  
action to any person, or the representative of the estate of any 183  
person, who sustains injury, death, or loss to person or 184  
property as a result of the failure to satisfy those conditions. 185  
In the civil action, the court additionally may enter any 186  
injunctive or other equitable relief that it considers 187  
appropriate. 188

(2) The following shall be affirmative defenses in a civil 189  
action authorized by division (H) (1) of this section: 190

(a) The physician performed or induced the abortion under 191  
the circumstances described in division (E) of this section. 192

(b) The physician made a good faith effort to satisfy the 193  
conditions specified in division (B) of this section. 194

(3) An employer or other principal is not liable in 195  
damages in a civil action authorized by division (H) (1) of this 196  
section on the basis of the doctrine of respondeat superior 197  
unless either of the following applies: 198

(a) The employer or other principal had actual knowledge 199  
or, by the exercise of reasonable diligence, should have known 200  
that an employee or agent performed or induced an abortion with 201  
actual knowledge that the conditions specified in division (B) 202  
of this section had not been satisfied or with a heedless 203  
indifference as to whether those conditions had been satisfied. 204

(b) The employer or other principal negligently failed to 205  
secure the compliance of an employee or agent with division (B) 206  
of this section. 207

(4) Notwithstanding division (E) of section 2919.12 of the 208  
Revised Code, the civil action authorized by division (H) (1) of 209  
this section shall be the exclusive civil remedy for persons, or 210  
the representatives of estates of persons, who allegedly sustain 211  
injury, death, or loss to person or property as a result of a 212  
failure to satisfy the conditions specified in division (B) of 213  
this section. 214

(I) The department of job and family services shall 215  
prepare and conduct a public information program to inform women 216  
of all available governmental programs and agencies that provide 217  
services or assistance for family planning, prenatal care, child 218  
care, or alternatives to abortion. 219

**Sec. 3701.341.** (A) The director of health, pursuant to 220  
Chapter 119. and consistent with Chapter 3728. and section 221  
2317.56 of the Revised Code, shall adopt rules relating to 222  
abortions and the following subjects: 223



(1) Post-abortion procedures to protect the health of the pregnant woman;	224 225
(2) Pathological reports;	226
(3) Humane disposition of the product of human conception;	227
(4) Counseling.	228
(B) The director of health shall implement the rules and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of the rules. This action is an additional remedy not dependent on the adequacy of the remedy at law.	229 230 231 232 233
<b>Sec. 3701.79.</b> (A) As used in this section:	234
(1) "Abortion" has the same meaning as in section 2919.11 of the Revised Code.	235 236
(2) "Abortion report" means a form completed pursuant to division (C) of this section.	237 238
(3) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.	239 240
(4) "Department" means the department of health.	241
(5) "Hospital" means any building, structure, institution, or place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, and medical or surgical care for three or more unrelated individuals suffering from illness, disease, injury, or deformity, and regularly making available at least clinical laboratory services, diagnostic x-ray services, treatment facilities for surgery or obstetrical care, or other definitive medical treatment. "Hospital" does not include a "home" as defined in section 3721.01 of the Revised	242 243 244 245 246 247 248 249 250

Code.	251
(6) "Physician's office" means an office or portion of an office that is used to provide medical or surgical services to the physician's patients. "Physician's office" does not mean an ambulatory surgical facility, a hospital, or a hospital emergency department.	252 253 254 255 256
(7) "Postabortion care" means care given after the uterus has been evacuated by abortion.	257 258
(B) The department shall be responsible for collecting and collating abortion data reported to the department as required by this section.	259 260 261
(C) The attending physician shall complete an individual abortion report for each abortion the physician performs upon a woman. The report shall be confidential and shall not contain the woman's name. The report shall include, but is not limited to, all of the following, insofar as the patient makes the data available that is not within the physician's knowledge:	262 263 264 265 266 267
(1) Patient number;	268
(2) The name and address of the facility in which the abortion was performed, and whether the facility is a hospital, ambulatory surgical facility, physician's office, or other facility;	269 270 271 272
(3) The date of the abortion;	273
(4) <u>If a surgical abortion, the method of final disposition of the fetal remains under Chapter 3728. of the Revised Code;</u>	274 275 276
(5) <u>All of the following regarding the woman on whom the abortion was performed:</u>	277 278

(a) Zip code of residence;	279
(b) Age;	280
(c) Race;	281
(d) Marital status;	282
(e) Number of previous pregnancies;	283
(f) Years of education;	284
(g) Number of living children;	285
(h) Number of previously induced abortions;	286
(i) Date of last induced abortion;	287
(j) Date of last live birth;	288
(k) Method of contraception at the time of conception;	289
(l) Date of the first day of the last menstrual period;	290
(m) Medical condition at the time of the abortion;	291
(n) Rh-type;	292
(o) The number of weeks of gestation at the time of the abortion.	293 294
<del>(5)</del> <u>(6)</u> The type of abortion procedure performed;	295
<del>(6)</del> <u>(7)</u> Complications by type;	296
<del>(7)</del> <u>(8)</u> Type of procedure performed after the abortion;	297
<del>(8)</del> <u>(9)</u> Type of family planning recommended;	298
<del>(9)</del> <u>(10)</u> Type of additional counseling given;	299
<del>(10)</del> <u>(11)</u> Signature of attending physician.	300
(D) The physician who completed the abortion report under	301

division (C) of this section shall submit the abortion report to 302  
the department within fifteen days after the woman is 303  
discharged. 304

(E) The appropriate vital records report or certificate 305  
shall be made out after the twentieth week of gestation. 306

(F) A copy of the abortion report shall be made part of 307  
the medical record of the patient of the facility in which the 308  
abortion was performed. 309

(G) Each hospital shall file monthly and annual reports 310  
listing the total number of women who have undergone a post- 311  
twelve-week-gestation abortion and received postabortion care. 312  
The annual report shall be filed following the conclusion of the 313  
state's fiscal year. Each report shall be filed within thirty 314  
days after the end of the applicable reporting period. 315

(H) Each case in which a physician treats a post abortion 316  
complication shall be reported on a postabortion complication 317  
form. The report shall be made upon a form prescribed by the 318  
department, shall be signed by the attending physician, and 319  
shall be confidential. 320

(I) (1) Not later than the first day of October of each 321  
year, the department shall issue an annual report of the 322  
abortion data reported to the department for the previous 323  
calendar year as required by this section. The annual report 324  
shall include at least the following information: 325

(a) The total number of induced abortions; 326

(b) The number of abortions performed on Ohio and out-of- 327  
state residents; 328

(c) The number of abortions performed, sorted by each of 329

the following:	330
(i) The age of the woman on whom the abortion was performed, using the following categories: under fifteen years of age, fifteen to nineteen years of age, twenty to twenty-four years of age, twenty-five to twenty-nine years of age, thirty to thirty-four years of age, thirty-five to thirty-nine years of age, forty to forty-four years of age, forty-five years of age or older;	331 332 333 334 335 336 337
(ii) The race and Hispanic ethnicity of the woman on whom the abortion was performed;	338 339
(iii) The education level of the woman on whom the abortion was performed, using the following categories or their equivalents: less than ninth grade, ninth through twelfth grade, one or more years of college;	340 341 342 343
(iv) The marital status of the woman on whom the abortion was performed;	344 345
(v) The number of living children of the woman on whom the abortion was performed, using the following categories: none, one, or two or more;	346 347 348
(vi) The number of weeks of gestation of the woman at the time the abortion was performed, using the following categories: less than nine weeks, nine to twelve weeks, thirteen to nineteen weeks, or twenty weeks or more;	349 350 351 352
(vii) The county in which the abortion was performed;	353
(viii) The type of abortion procedure performed;	354
(ix) The number of abortions previously performed on the woman on whom the abortion was performed;	355 356

(x) The type of facility in which the abortion was performed;	357 358
(xi) For Ohio residents, the county of residence of the woman on whom the abortion was performed.	359 360
(2) The report also shall indicate the number and type of the abortion complications reported to the department either on the abortion report required under division (C) of this section or the postabortion complication report required under division (H) of this section.	361 362 363 364 365
(3) In addition to the annual report required under division (I)(1) of this section, the department shall make available, on request, the number of abortions performed by zip code of residence.	366 367 368 369
(J) The director of health shall implement this section and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of its requirements. This action is an additional remedy not dependent on the adequacy of the remedy at law.	370 371 372 373 374
<b><u>Sec. 3728.01. As used in this chapter:</u></b>	375
<u>(A) "Abortion facility" means any of the following in which abortions are induced or performed:</u>	376 377
<u>(1) Ambulatory surgical facility as defined in section 3702.30 of the Revised Code;</u>	378 379
<u>(2) Any other facility in which abortion is legally provided.</u>	380 381
<u>(B) "Cremation" has the same meaning as in section 4717.01 of the Revised Code.</u>	382 383

(C) "Fetal remains" means the entire fetus or any of its 384  
parts removed from the pregnant woman's uterus by an abortion, 385  
irrespective of the duration of the pregnancy. 386

(D) "Interment" means the burial or entombment of fetal 387  
remains. 388

**Sec. 3728.02.** (A) Final disposition of fetal remains from 389  
a surgical abortion at an abortion facility shall be by 390  
cremation or interment. 391

(B) The cremation of fetal remains under division (A) of 392  
this section shall be in a crematory facility, in compliance 393  
with Chapter 4717. of the Revised Code. 394

(C) As used in this section, "crematory facility" has the 395  
same meaning as in section 4717.01 of the Revised Code. 396

**Sec. 3728.03.** A pregnant woman who has a surgical abortion 397  
has the right to determine both of the following regarding the 398  
fetal remains: 399

(A) Whether the final disposition shall be by cremation or 400  
interment; 401

(B) The location for the final disposition. 402

**Sec. 3728.04.** (A) (1) If a pregnant woman desires to 403  
exercise the rights under section 3728.03 of the Revised Code, 404  
she shall make the determination in writing using a form 405  
prescribed by the director of health under division (C) of 406  
section 3728.14 of the Revised Code. The determination must 407  
clearly indicate both of the following: 408

(a) Whether the final disposition will be by cremation or 409  
interment; 410

(b) Whether the final disposition will be at a location 411  
other than one provided by the abortion facility. 412

(2) If a pregnant woman does not desire to exercise the 413  
rights under section 3728.03 of the Revised Code, the abortion 414  
facility shall determine whether final disposition shall be by 415  
cremation or interment. 416

(B) (1) A pregnant woman who is under eighteen years of 417  
age, unmarried, and unemancipated shall obtain parental consent 418  
from one of the person's parents, guardian, or custodian to the 419  
final disposition determination she makes under division (A) (1) 420  
of this section. The consent shall be made in writing using a 421  
form prescribed by the director under division (B) of section 422  
3728.14 of the Revised Code. 423

(2) The consent under division (B) (1) of this section is 424  
not required for a pregnant woman exercising her rights under 425  
section 3728.03 of the Revised Code if an order authorizing 426  
consent to the abortion was issued under section 2151.85 of the 427  
Revised Code. 428

**Sec. 3728.05.** An abortion facility may not release fetal 429  
remains from a surgical abortion, or arrange for the cremation 430  
or interment of such fetal remains, until it obtains a final 431  
disposition determination made, and if applicable, the consent 432  
made, under section 3728.04 of the Revised Code. 433

**Sec. 3728.09.** (A) Except as provided in division (B) of 434  
this section, an abortion facility shall pay for and provide for 435  
the cremation or interment of the fetal remains from a surgical 436  
abortion performed at that facility. 437

(B) If the disposition determination made under division 438  
(A) (1) of section 3728.04 of the Revised Code identifies a 439



location for final disposition other than one provided by the 440  
abortion facility, the pregnant woman is responsible for the 441  
costs related to the final disposition of the fetal remains at 442  
the chosen location. 443

Sec. 3728.10. An abortion facility shall document in the 444  
pregnant woman's medical record the final disposition 445  
determination made, and if applicable, the consent made, under 446  
section 3728.04 of the Revised Code. 447

Sec. 3728.11. An abortion facility shall maintain 448  
evidentiary documentation demonstrating the date and method of 449  
the disposition of fetal remains from surgical abortions 450  
performed or induced in the facility. 451

Sec. 3728.12. An abortion facility shall have written 452  
policies and procedures regarding cremation or interment of 453  
fetal remains from surgical abortions performed or induced in 454  
the facility. 455

Sec. 3728.13. An abortion facility shall develop and 456  
maintain a written list of locations at which it provides or 457  
arranges for the final disposition of fetal remains from 458  
surgical abortions. 459

Sec. 3728.14. Not later than ninety days after the 460  
effective date of this section, the director of health, in 461  
accordance with Chapter 119. of the Revised Code, shall adopt 462  
rules necessary to carry out sections 3728.01 to 3728.13 of the 463  
Revised Code, including rules that prescribe the following: 464

(A) The method in which pregnant women who seek surgical 465  
abortions are informed of the following: 466

(1) The right to determine final disposition of fetal 467  
remains under section 3728.03 of the Revised Code; 468

<u>(2) The available options for locations and methods for</u>	469
<u>the disposition of fetal remains.</u>	470
<u>(B) The notification form for final disposition</u>	471
<u>determinations and the consent form for purposes of section</u>	472
<u>3728.04 of the Revised Code.</u>	473
<u>(C) (1) A detachable supplemental form to the form</u>	474
<u>described in division (B) (4) of section 2317.56 of the Revised</u>	475
<u>Code that meets the following requirements:</u>	476
<u>(a) Indicates whether the pregnant woman has indicated a</u>	477
<u>preference as to the method of disposition of the fetal remains</u>	478
<u>and the preferred method selected;</u>	479
<u>(b) Indicates whether the pregnant woman has indicated a</u>	480
<u>preference as to the location of disposition of the fetal</u>	481
<u>remains;</u>	482
<u>(c) Provides for the signature of the physician who is to</u>	483
<u>perform or induce the abortion;</u>	484
<u>(d) Provides for a medical identification number for the</u>	485
<u>pregnant woman but does not provide for the pregnant woman's</u>	486
<u>printed name or signature.</u>	487
<u>(2) If a medical emergency or medical necessity prevents</u>	488
<u>the pregnant woman from completing the detachable supplemental</u>	489
<u>form, procedures to complete that form a reasonable time after</u>	490
<u>the medical emergency or medical necessity has ended.</u>	491
<u>Sec. 3728.15. Notwithstanding any conflicting provision of</u>	492
<u>the Revised Code or procedure of an agency or board, a person</u>	493
<u>who buries or cremates fetal remains from a surgical abortion is</u>	494
<u>not liable for or subject to damages in any civil action,</u>	495
<u>prosecution in any criminal proceeding, or professional</u>	496

disciplinary action related to the disposal of fetal remains, if 497  
that person does all of the following: 498

(A) Acts in good faith compliance with this chapter and, 499  
if applicable, section 4717.271 of the Revised Code; 500

(B) Receives a copy of a properly executed detachable 501  
supplemental form described in division (C) (1) of section 502  
3728.14 of the Revised Code; 503

(C) Acts in furtherance of the final disposition of the 504  
fetal remains. 505

**Sec. 3728.95.** A pregnant woman who has a surgical 506  
abortion, the fetal remains from which are not disposed of in 507  
compliance with this chapter, is not guilty of committing, 508  
attempting to commit, complicity in the commission of, or 509  
conspiracy in the commission of a violation of section 3728.99 510  
of the Revised Code. 511

**Sec. 3728.99.** (A) No person shall fail to comply with 512  
section 3728.02, 3728.05, 3728.10, or 3728.11 of the Revised 513  
Code. 514

(B) Whoever knowingly violates division (A) of this 515  
section is guilty of failure to dispose of fetal remains 516  
humanely, a misdemeanor of the first degree. 517

**Sec. 4717.271.** The operator of a crematory facility that 518  
cremates fetal remains for an abortion facility under Chapter 519  
3728. of the Revised Code shall not do either of the following: 520

(A) Dispose of the cremated fetal remains anywhere other 521  
than in a grave, crypt, or niche; 522

(B) Arrange for the transfer or disposal of the cremated 523  
fetal remains anywhere other than in a grave, crypt, or niche. 524

**Section 2.** That existing sections 2317.56, 3701.341, and 3701.79 of the Revised Code are hereby repealed.

**Section 3.** Neither of the following shall apply until rules are adopted under section 3728.14 of the Revised Code:

(A) The prohibition under section 3728.99 of the Revised Code;

(B) The prohibitions under section 4717.271 of the Revised Code.